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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,637	10/24/2003	Michael Liebler-Ranzus	MOH-P010111	8633
24131 7590 08/26/2008 LERNER GREENBERG STEMER LLP P O BOX 2480 HOLLYWOOD, FL 33022-2480				
EXAMINER PALABRICA, RICARDO J				
ART UNIT 3663		PAPER NUMBER		
MAIL DATE 08/26/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/692,637

Applicant(s)

LIEBLER-RANZUS, MICHAEL

Examiner

Rick Palabrica

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 4-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 7/21/08, which added new claim 7, and traversed the rejection of claims in the 1/29/08 Office action, has been entered.

Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 2, and 4-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "respective said inner web" in the penultimate line. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by either one of Nylund (U.S. 5,080,858) or Gustafsson (U.S. 5,530,729).

Nylund ('858)

As to claim 1, Nylund discloses a spacer for a boiling water reactor comprising a frame formed with outer and inner webs oriented crossways with respect to one another (see Fig. 3).

Applicant's claim language reads on Nylund ('858) as follows: a) "gills" reads on the upper projections of the spacer skirt in the direction of fuel channel 6 (see Figs. 5 and 8); b) "plurality of projections each formed by an outward bulge in a wall of outer webs" reads on the plurality of deflection fins 14; c) "deflector lug" reads on guide studs 11 (see Fig 5) or 17 (see Fig. 8).

Note that the projections (i.e., fins 14) project outwardly to a greater extent than the gills (see Figs. 5 and 8). The projections are disposed inwardly from the spacer 8 and are therefore in a region of the inner web (see topside of fins 14 in Figs. 5 and 8).

As to claim 2, the projections are formed below the gills.

As to claim 7, the projections have a configuration that prevents the gills from coming into contact with the fuel assembly channel 6.

Gustafson

As to claim 1, Gustafson discloses a spacer for a boiling water reactor comprising a frame formed with outer and inner webs oriented crossways with respect to one another (e.g., see Figs. 2a, 2b).

Applicant's claim language reads on Gustafson as follows (see Figs. 2a, 2b): a) "gill" reads on portion 15 (see also col. 5, lines 6+); b) "plurality of projections each formed by an outward bulge in a wall of outer webs" reads on the plurality of portions 16; c) "deflector lug" reads on guide studs 14.

Note that the projections (i.e., portions 16) project outwardly to a greater extent than the gills (see col. 5, lines 10+).

As to claim 2, the lowest part of the projections is formed below the gills.

As to claim 7, the projections have a configuration that prevents the gills from coming into contact with the fuel assembly channel 2.

4. Claims 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Gustafsson.

Applicant's claim language, "said inner web" reads on the inner web at the four corners of the spacer, said corners each having an aperture 19 (see Figs. 2a, 2b, 2c). This inner web has a lateral edge, a first supporting section (i.e., dimple on top part of the web), and second supporting section (i.e., dimple on the bottom part of the web).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reference C further illustrates prior art.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick Palabrica whose telephone number is 571-272-6880. The examiner can normally be reached on 6:00-4:30, Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 25, 2008

/Rick Palabrica/
Primary Examiner, Art Unit 3663

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